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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT G. LUSTYIK, JR.,  
MICHAEL L. TAYLOR, and  
JOHANNES W. THALER,

Defendants.

Case No. 2:12-cr-645 (TC) (DBP)

**UNITED STATES' RESPONSE TO  
DEFENSE COUNSEL'S MOTION TO  
ORDER DEPARTMENT OF JUSTICE  
(PUBLIC INTEGRITY UNIT) ATTORNEYS  
TO COMPLY WITH JUDGE CAMPBELL'S  
ORDER AND MANDATE ISSUED IN  
COURT ON JUNE 24, 2013**

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The United States, by and through undersigned counsel, respectfully submits this Response to Defendants Lustyik's and Thaler's Motion to Order Department of Justice (Public Integrity Unit) Attorneys to Comply with Judge Campbell's Order and Mandate Issued in Court on June 24, 2013 [Dock. No. 348]. In support of this response, the United States submits as follows:

1. Defendants' Motion fails to state grounds for relief upon which this Court can act. The Public Integrity Section and the Asset Forfeiture and Money Laundering Section, the two Department of Justice Criminal Division components prosecuting this case, have had no involvement in the security clearance process for defense counsel. They do not possess, nor have they seen or reviewed, any of the certifications related to defense counsel's health, medical, or financial information, as alleged by defendant Lustyik.

2. The prosecuting components in this case have not been “utilizing proxy’s [sic] to harass and violate Counsel’s privacy rights,” Defs.’ Mot at 2. As has been noted time and again, the Classified Information Security Officer (“CISO”) is responsible for overseeing the process of obtaining security clearances for defense counsel. The prosecuting components in this case have not received or reviewed any of the material that defense counsel have submitted to the CISO.<sup>1</sup> Consequently, there is nothing being handled by the prosecuting components that the Court can order the United States to “stop immediately.” *Id.*

3. Notably, defense counsel offer no support for their position that the prosecuting components have had any involvement in the security clearance process, or that the prosecuting components have been “utilizing proxy’s [sic]” to continue the security clearance process. Consequently, defense counsel have failed to meet their burden for why sanctions or costs should be imposed.

WHEREFORE, for the reasons stated above, the United States submits that this Court should deny Defendants’ Motion.

Respectfully submitted,

JACK SMITH  
Chief

JAIKUMAR RAMASWAMY  
Chief

By: /s/ Maria N. Lerner  
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By: /s/ Ann Marie Blaylock Bacon  
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<sup>1</sup> The United States defers to the CISO to further apprise the Court of the status of the security clearance process, and counsels’ recent requests that the process be halted.

**Certificate of Service**

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record for the defendants.

/s/ Maria N. Lerner

MARIA N. LERNER

Trial Attorney

Dated: July 22, 2013